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8 **BEFORE THE**
RESPIRATORY CARE BOARD
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

11 KETURAH CHARMELE GREEN
12 965 Rohwer Court
13 Dixon CA 95620

14 Respiratory Care Practitioner License No. 20709

15 Respondent.

Case No. R-2091

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

16
17 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the
18 above-entitled proceedings that the following matters are true:

19 PARTIES

20 1. Stephanie Nunez (Complainant) is the Executive Officer of the
21 Respiratory Care Board of California. She brought this action solely in her official capacity and
22 is represented in this matter by Edmund G. Brown Jr., Attorney General of the State of
23 California, by Catherine E. Santillan, Senior Legal Analyst.

24 2. Respondent Keturah Charmel Green (Respondent) is represented in this
25 proceeding by attorney Julie McComb, whose address is Nossaman, Guthner, Knox & Elliott,
26 LLP, 915 L Street, Suite 1000, Sacramento, California 95814-3705.

27 3. On or about April 9, 1999, the Respiratory Care Board of California issued
28 Respiratory Care Practitioner License No. 20709 to Respondent. The Respiratory Care

1 Practitioner License was in full force and effect at all times relevant to the charges brought in
2 Accusation No. R-2091 and will expire on February 28, 2009, unless renewed.

3 JURISDICTION

4 4. Accusation No. R-2091 was filed before the Respiratory Care Board
5 (Board), Department of Consumer Affairs, and is currently pending against Respondent. The
6 Accusation and all other statutorily required documents were properly served on Respondent on
7 July 10, 2007. Respondent timely filed her Notice of Defense contesting the Accusation. A copy
8 of Accusation No. R-2091 is attached as exhibit A and incorporated herein by reference.

9 ADVISEMENT AND WAIVERS

10 5. Respondent has carefully read, fully discussed with counsel, and
11 understands the charges and allegations in Accusation No. R-2091. Respondent has also
12 carefully read, fully discussed with counsel, and understands the effects of this Stipulated
13 Settlement and Disciplinary Order.

14 6. Respondent is fully aware of her legal rights in this matter, including the
15 right to a hearing on the charges and allegations in the Accusation; the right to be represented by
16 counsel at her own expense; the right to confront and cross-examine the witnesses against her;
17 the right to present evidence and to testify on her own behalf; the right to the issuance of
18 subpoenas to compel the attendance of witnesses and the production of documents; the right to
19 reconsideration and court review of an adverse decision; and all other rights accorded by the
20 California Administrative Procedure Act and other applicable laws.

21 7. Respondent voluntarily, knowingly, and intelligently waives and gives up
22 each and every right set forth above.

23 CULPABILITY

24 8. Respondent admits the truth of each and every charge and allegation in
25 Accusation No. R-2091.

26 9. Respondent agrees that her Respiratory Care Practitioner License is
27 subject to discipline and she agrees to be bound by the Board 's imposition of discipline as set
28 forth in the Disciplinary Order below.

1 CONTINGENCY

2 10. This stipulation shall be subject to approval by the Board. Respondent
3 understands and agrees that counsel for Complainant and the staff of the Board may
4 communicate directly with the Board regarding this stipulation and settlement, without notice to
5 or participation by Respondent or her counsel. By signing the stipulation, Respondent
6 understands and agrees that she may not withdraw her agreement or seek to rescind the
7 stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this
8 stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of
9 no force or effect, except for this paragraph, it shall be inadmissible in any legal action between
10 the parties, and the Board shall not be disqualified from further action by having considered this
11 matter.

12 11. The parties understand and agree that facsimile copies of this Stipulated
13 Settlement and Disciplinary Order, including facsimile signatures thereto, shall have the same
14 force and effect as the originals.

15 12. In consideration of the foregoing admissions and stipulations, the parties
16 agree that the Board may, without further notice or formal proceeding, issue and enter the
17 following Disciplinary Order:

18 DISCIPLINARY ORDER

19 IT IS HEREBY ORDERED that Respiratory Care Practitioner License No. 20709
20 issued to Respondent Keturah Charmel Green (Respondent) is revoked. However, the
21 revocation is stayed and Respondent is placed on probation for five (5) years on the following
22 terms and conditions.

23 1. SUSPENSION As part of probation, Respondent shall be suspended
24 from the practice of respiratory care for a period of three months, beginning the effective date of
25 this decision.

26 2. ALCOHOL AND DRUG TREATMENT Respondent, at her expense,
27 shall successfully complete a treatment regime at a recognized and established program in
28 California of at least six months duration approved by the Board. The treatment program shall be

1 successfully completed within the first nine months of probation. The program director,
2 psychiatrist or psychologist shall confirm that Respondent has complied with the requirement of
3 this decision and shall notify the Board immediately if he/she believes the Respondent cannot
4 safely practice. Respondent shall execute a release authorizing divulgence of this information to
5 the Board.

6 Respondent shall inform the program director, psychiatrist or psychologist, of
7 his/her probationary status with the Board, and shall cause that individual to submit monthly
8 reports to the Board providing information concerning Respondent's progress and prognosis.
9 Such reports shall include results of biological fluid testing. Positive results shall be reported
10 immediately to the Board and shall be used in administrative discipline.

11 3. PSYCHOLOGICAL EVALUATION Within thirty days of the effective
12 date of this decision, and on a periodic basis thereafter as may be required or directed by the
13 Board, Respondent, at her own expense, shall have a mental health examination, including
14 psychological assessment and testing as appropriate, to determine her capacity to perform all
15 professional duties with safety to self and to the public. The examination will be performed by a
16 licensed psychiatrist or psychologist appointed by the Board. Respondent shall provide this
17 evaluator with a copy of the Board's disciplinary order prior to the evaluation and shall execute a
18 release authorizing the evaluator to review her prior psychological records. The examiner must
19 submit a written report of that assessment and recommendations to the Board.
20 Recommendations for cessation of practice for safety of patients, treatment, therapy or
21 counseling made as a result of the mental health examination will be instituted and followed by
22 the Respondent. If the examiner recommends respondent undergo treatment, therapy, or
23 counseling, Respondent shall cause that treating individual to submit monthly reports to the
24 Board providing information concerning Respondent's progress and prognosis. All costs incurred
25 for evaluation and treatment are the responsibility of the Respondent.

26 Any examination required of a Respondent whose violation(s) involves substance
27 abuse must be performed by a licensed psychiatrist or psychologist who has established expertise
28 in the field of alcohol and drug assessment, treatment, and recovery.

Respondent shall execute a release authorizing the evaluator to divulge the
aforementioned information to the Board.

4. PSYCHOLOGICAL COUNSELING Within one year of the effective date
of the decision, Respondent agrees to attend twelve to eighteen sessions of individual
psychological counseling as authorized by the Medi-Cal program. She agrees to see a psychiatrist
once a month for the entire term of probation. Respondent shall cause the psychiatrist treating her
to submit monthly reports to the Board providing information concerning Respondent's progress
and prognosis.

5. WORK SCHEDULES Respondent shall be required to submit to the
probation monitor work schedules on a weekly/monthly basis for the length of probation.
Respondent shall ensure the Board has a copy of her current work schedule at all times for each
place of employment.

Failure to submit current work schedules on a continuous basis shall constitute a
violation of probation and shall result in the filing of an accusation and/or a petition to revoke
probation against Respondent's respiratory care practitioner license.

6. BIOLOGICAL FLUID TESTING Respondent, at her expense, shall
participate in random testing, including, but not limited to, biological fluid testing (i.e. urine,
blood, saliva), breathalyzer, hair follicle testing, or a drug screening program approved by the
Board. Test costs range from \$21.00 to \$200.00 each. The length of time shall be for the entire
probation period. The frequency and location of testing will be determined by the Board.

At all times, Respondent shall fully cooperate with the Board or any of its
representatives, and shall, when directed, appear for testing as requested and submit to such tests
and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other
controlled substances.

If Respondent is unable to provide a specimen in a reasonable amount of time
from the request, while at the work site, Respondent understands that any Board representative
may request from the supervisor, manager or director on duty to observe Respondent in a manner
that does not interrupt or jeopardize patient care in any manner until such time Respondent

provides a specimen acceptable to the Board.

Failure to submit to testing or appear as requested by any Board representative for testing, as directed shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

7. ABSTENTION FROM USE OF ANY AND ALL MOOD ALTERING SUBSTANCES Respondent shall completely abstain from the possession or use of alcohol, controlled substances, dangerous drugs, and any and all other mood altering drugs, substances and their associated paraphernalia, except when the drugs are lawfully prescribed by a licensed practitioner as part of a documented medical treatment.

Respondent shall execute a release authorizing the release of pharmacy and prescribing records as well as physical and mental health medical records. Respondent shall also provide information of treating physicians, counselors or any other treating professionals as requested by the Board.

Respondent shall ensure that she is not in the presence of or in the same physical location as individuals who are using illegal substances, even if Respondent is not personally ingesting the drug(s).

Any positive result that registers over the established laboratory cutoff level shall constitute a violation of probation and shall result in the filing of an accusation and/or a petition to revoke probation against Respondent's respiratory care practitioner license.

Respondent also understands and agrees that any positive result that registers over the established laboratory cutoff level shall be reported to each of Respondent's employers.

8. RESTRICTION OF PRACTICE Respondent may not be employed or function as a member of a respiratory care management or supervisory staff during the entire length of probation. This includes lead functions.

Respondent is prohibited from working in home care unless it is under direct supervision and personal observation.

Respondent is prohibited from working for a registry.

1 9. DIRECT SUPERVISION During the period of probation, Respondent
2 shall be under the direct supervision of a person holding a current and valid non-restricted Board
3 license. "Under the direct supervision" means assigned to a respiratory care practitioner who is
4 on duty and immediately available in the assigned patient area. The Board shall be informed in
5 writing of and approve the level of supervision provided to the Respondent while she is
6 functioning as a licensed respiratory care practitioner. The appropriate level of supervision must
7 be approved by the Board prior to commencement of work.

8 10. SUPERVISOR QUARTERLY REPORTS Supervisor Quarterly Reports
9 of Performance are due for each year of probation and the entire length of probation from each
10 employer, as follows:

11 For the period covering January 1st through March 31st, reports are to be
12 completed and submitted between April 1st and April 7th. For the period covering April 1st
13 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
14 the period covering July 1st through September 30th, reports are to be completed and submitted
15 between October 1st and October 7th. For the period covering October 1st through December 31st,
16 reports are to be completed and submitted between January 1st and January 7th.

17 Respondent is ultimately responsible for ensuring her employer(s) submits
18 complete and timely reports. Failure to ensure each employer submits complete and timely
19 reports shall constitute a violation of probation.

20 11. OBEY ALL LAWS Respondent shall obey all laws, whether federal,
21 state, or local. Respondent shall also obey all regulations governing the practice of respiratory
22 care in California.

23 Respondent shall notify the Board in writing within 14 days of any incident
24 resulting in her arrest, or charges filed against, or a citation issued against Respondent.

25 12. QUARTERLY REPORTS Respondent shall file quarterly reports of
26 compliance under penalty of perjury, on forms to be provided to the probation monitor assigned
27 by the Board. Omission or falsification in any manner of any information on these reports shall
28 constitute a violation of probation and shall result in the filing of an accusation and/or a petition

1 to revoke probation against Respondent's respiratory care practitioner license.

2 Quarterly report forms will be provided by the Board. Respondent is responsible
3 for contacting the Board to obtain additional forms if needed. Quarterly reports are due for each
4 year of probation and the entire length of probation as follows:

5 For the period covering January 1st through March 31st, reports are to be
6 completed and submitted between April 1st and April 7th. For the period covering April 1st
7 through June 30th, reports are to be completed and submitted between July 1st and July 7th. For
8 the period covering July 1st through September 30th, reports are to be completed and submitted
9 between October 1st and October 7th. For the period covering October 1st through December 31st,
10 reports are to be completed and submitted between January 1st and January 7th.

11 Failure to submit complete and timely reports shall constitute a violation of
12 probation.

13 13. PROBATION MONITORING PROGRAM Respondent shall comply
14 with requirements of the Board appointed probation monitoring program, and shall, upon
15 reasonable request, report to or appear to a local venue as directed.

16 Respondent shall claim all certified mail issued by the Board, respond to all
17 notices of reasonable requests timely, and submit Annual Reports, Identification Update reports
18 or other reports similar in nature, as requested and directed by the Board or its representative.

19 Respondent is encouraged to contact the Board's Probation Program at any time
20 she has a question or concern regarding her terms and conditions of probation.

21 Failure to appear for any scheduled meeting or examination, or cooperate with the
22 requirements of the program, including timely submission of requested information, shall
23 constitute a violation of probation and will result in the filing of an accusation and/or a petition to
24 revoke probation against Respondent's respiratory care practitioner license.

25 14. PROBATION MONITORING COSTS All costs incurred for probation
26 monitoring during the entire probation shall be paid by the Respondent. The monthly cost may
27 be adjusted as expenses are reduced or increased. Respondent's failure to comply with all terms
28 and conditions may also cause this amount to be increased.

1 All payments for costs are to be sent directly to the Respiratory Care Board and
2 must be received by the date(s) specified. (Periods of tolling will not toll the probation
3 monitoring costs incurred.)

4 If Respondent is unable to submit costs for any month, she shall be required
5 instead to submit an explanation of why she is unable to submit the costs, and the date(s) she will
6 be able to submit the costs including payment amount(s). Supporting documentation and
7 evidence of why the Respondent is unable to make such payment(s) must accompany this
8 submission.

9 Respondent understands that failure to submit costs timely is a violation of
10 probation and submission of evidence demonstrating financial hardship does not preclude the
11 Board from pursuing further disciplinary action. However, Respondent understands providing
12 evidence and supporting documentation of financial hardship may delay further disciplinary
13 action.

14 In addition to any other disciplinary action taken by the Board, an unrestricted
15 license will not be issued at the end of the probationary period and the respiratory care
16 practitioner license will not be renewed, until such time all probation monitoring costs have been
17 paid.

18 The filing of bankruptcy by Respondent shall not relieve the Respondent of her
19 responsibility to reimburse the Board for costs incurred.

20 15. EMPLOYMENT REQUIREMENT Respondent shall be employed a
21 minimum of 24 hours per week as a respiratory care practitioner for a minimum of 2/3 of her
22 probation period.

23 Respondent may substitute successful completion of a minimum of thirty (30)
24 additional continuing education hours, beyond that which is required for license renewal, for
25 each 8 months of employment required. Respondent shall submit proof to the Board of
26 successful completion of all continuing education requirements. Respondent is responsible for
27 paying all costs associated with fulfilling this term and condition of probation.

28 ///

1 16. NOTICE TO EMPLOYER Respondent shall be required to inform her
2 employer, and each subsequent employer during the probation period, of the discipline imposed
3 by this decision by providing her supervisor and director and all subsequent supervisors and
4 directors with a copy of the decision and order, and the Statement(s) of Issues or Accusation(s) in
5 this matter prior to the beginning of or returning to employment or within 14 days from each
6 change in a supervisor or director.

7 If Respondent is employed by or through a registry [and is not restricted from
8 working for a registry], Respondent shall make each hospital or establishment to which she is
9 sent aware of the discipline imposed by this decision by providing her direct supervisor and
10 administrator at each hospital or establishment with a copy of this decision, and the Statement(s)
11 of Issues or Accusation(s) in this matter prior to the beginning of employment. This must be
12 done each time there is a change in supervisors or administrators.

13 The employer will then inform the Board, in writing, that she is aware of the
14 discipline, on forms to be provided to the Respondent. Respondent is responsible for contacting
15 the Board to obtain additional forms, if needed. All reports completed by the employer must be
16 submitted from the employer directly to the Board.

17 Respondent shall execute a release authorizing the Board or any of its
18 representatives to review and obtain copies of all employment records and discuss and inquire of
19 the probationary status with any of Respondent's supervisors or directors.

20 17. CHANGES OF EMPLOYMENT OR RESIDENCE Respondent shall
21 notify the Board, and appointed probation monitor, in writing, of any and all changes of
22 employment, location, and address within 14 days of such change. This includes, but is not
23 limited to, applying for employment, termination or resignation from employment, change in
24 employment status, change in supervisors, administrators or directors.

25 Respondent shall also notify her probation monitor AND the Board IN WRITING
26 of any changes of residence or mailing address within 14 days. P.O. Boxes are accepted for
27 mailing purposes, however the Respondent must also provide her physical residence address as
28 well.

1 18. SURRENDER OF LICENSE Following the effective date of this
2 decision, if Respondent ceases practicing due to retirement, health reasons or is otherwise unable
3 to satisfy the terms and conditions of probation, she may request the voluntary surrender of her
4 license. The Board reserves the right to evaluate Respondent's request and to exercise its
5 discretion whether or not to grant the request or to take any other action deemed appropriate and
6 reasonable under the circumstances. Upon formal acceptance of the surrender, within 15
7 calendar days Respondent shall deliver her wallet and wall certificate to the Board or its designee
8 and she shall no longer practice respiratory care. Respondent will no longer be subject to the
9 terms and conditions of probation and the surrender of Respondent's license shall be deemed
10 disciplinary action. If Respondent re-applies for a respiratory care license, the application shall
11 be treated as a petition for reinstatement of a revoked license.

12 19. COST RECOVERY Respondent shall pay to the Board a sum not to
13 exceed the costs of the investigation and prosecution of this case. That sum shall be \$1781.13
14 (one thousand seven hundred eight one dollars and thirteen cents) and shall be paid in full
15 directly to the Board, in equal quarterly payments, within forty eight months from the effective
16 date of this decision. Cost recovery will not be tolled.

17 If Respondent is unable to submit costs timely, she shall be required instead to
18 submit an explanation of why she is unable to submit these costs in part or in entirety, and the
19 date(s) she will be able to submit the costs including payment amount(s). Supporting
20 documentation and evidence of why the Respondent is unable to make such payment(s) must
21 accompany this submission.

22 Respondent understands that failure to submit costs timely is a violation of
23 probation, and submission of evidence demonstrating financial hardship does not preclude the
24 Board from pursuing further disciplinary action. However, Respondent understands that
25 providing evidence and supporting documentation of financial hardship may delay further
26 disciplinary action.

27 Consideration to financial hardship will not be given should Respondent violate
28 this term and condition, unless an unexpected AND unavoidable hardship is established from the

1 date of this order to the date payment(s) is due.

2 The filing of bankruptcy by the Respondent shall not relieve the Respondent of
3 her responsibility to reimburse the Board for these costs.

4 20. TOLLING FOR OUT-OF-STATE RESIDENCE OR PRACTICE Periods
5 of residency or practice outside California, whether the periods of residency or practice are
6 temporary or permanent, will toll the probation period, but will not toll the cost recovery
7 requirement, nor the probation monitoring costs incurred. Travel out of California for more than
8 30 days must be reported to the Board in writing prior to departure. Respondent shall notify the
9 Board, in writing, within 14 days, upon her return to California and prior to the commencement
10 of any employment where representation as a respiratory care practitioner is/was provided.

11 21. VALID LICENSE STATUS Respondent shall maintain a current, active
12 and valid license for the length of the probation period. Failure to pay all fees and meet
13 Continuing Education requirements prior to her license expiration date shall constitute a
14 violation of probation.

15 22. VIOLATION OF PROBATION If Respondent violates any term of the
16 probation in any respect, the Board, after giving Respondent notice and the opportunity to be
17 heard, may revoke probation and carry out the disciplinary order that was stayed. If a petition to
18 revoke probation is filed against Respondent during probation, the Board shall have continuing
19 jurisdiction and the period of probation shall be extended until the matter is final. No petition for
20 modification of penalty shall be considered while there is an accusation or petition to revoke
21 probation or other penalty pending against Respondent.

22 23. COMPLETION OF PROBATION Upon successful completion of
23 probation, Respondent's license shall be fully restored.

24 ACCEPTANCE

25 I have carefully read the above Stipulated Settlement and Disciplinary Order and
26 have fully discussed it with my attorney, Julie McComb. I understand the stipulation and the
27 effect it will have on my Respiratory Care Practitioner License.

28 ///

1 I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and
2 intelligently, and agree to be bound by the Decision and Order of the Respiratory Care Board.

3 DATED: March 25, 2008.

4 Original signed by: _____
5 KETURAH CHARMELE GREEN
6 Respondent

7 I have read and fully discussed with Respondent Keturah Charmel Green the
8 terms and conditions and other matters contained in the above Stipulated Settlement and
9 Disciplinary Order. I approve its form and content.

10 DATED: March 21, 2008.

11
12 Original signed by: _____
13 JULIE MCCOMB
14 Attorney for Respondent

15 ENDORSEMENT

16 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
17 submitted for consideration by the Respiratory Care Board of the Department of Consumer
18 Affairs.

19 DATED: March 26, 2008

20 EDMUND G. BROWN JR., Attorney General
21 of the State of California

22 JOSE R. GUERRERO
23 Supervising Deputy Attorney General

24
25 Original signed by: _____
26 CATHERINE E. SANTILLAN
27 Senior Legal Analyst

Attorneys for Complainant

**BEFORE THE
RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. R-2091

KETURAH CHARMEL GREEN
965 Rohwer Court
Dixon CA 95620

Respiratory Care Practitioner License No. 20709

Respondent.

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Respiratory Care Board, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on May 29, 2008.

It is so ORDERED May 19, 2008.

Original signed by:

LARRY L. RENNER, BS, RRT, RCP, RPFT
PRESIDENT, RESPIRATORY CARE BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA